



MEMO

To: City Council

Date: April 21, 2016

From: Tex Bradford

Re: Water Case No. 2016CW3009

The following is information in regards to a new surface water rights application, brought to staff's attention by the City's Water Attorney Jennifer DiLalla with Moses, Wittemyer, Harrison & Woodruff, who has represented the City in regards to water and water rights issues for many years.

The application is for 0.4 cfs to be diverted out of the Gunnison River upstream of the City's wells, the Gunnison Town Ditch, the Gunnison Town Pipeline, and the Piloni Ditch. The water right would be an enlargement on the senior water rights already decreed to the Gunnison and Ohio Creek Canal and would divert at the same point of diversion for the canal under a 2016 priority.

Jennifer's recommendation is to file a statement of opposition in this case and provided the following explanation. To ensure that appropriate terms and conditions—and particularly terms and conditions to ensure proper accounting for this new water right as distinct from the far more senior (1906priority) water rights already decreed.

In short, the recommended opposition is an effort to assure that proper measurement and documentation of the new diversion request of 0.4cfs is provided to the water commissioner and our engineer to protect the City's current downstream rights.

Water Attorney fees have been budgeted on page 49 of the 2016 budget under City Attorney in line item 01-4003-4330.

No formal action is required as requested of Council and, unless Council disagrees, staff will authorize the Water Attorney to proceed with the recommendation to oppose. The opposition must be filed by Friday, April 29th.